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U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

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8:13 CV 376

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

20	CV 13-9272 CAS (MAN)	No. CV
21 U.S. DISTRICT COURT 22 CLERK, U.S. DIST. OF CALIF. 23 LOS ANGELES 24 BY: J) UNITED STATES OF AMERICA,) Plaintiff,) v.) RCV SBIC, L.P.) Defendant.)	
25 26 27 28	Consent Order	

LOADED

1 Before this Court is the Complaint by the United States of America,
2 on behalf of the United States Small Business Administration ("SBA"), for
3 the appointment of the SBA as Receiver for RCV SBIC, L.P. ("RCV"). The
4 Court, being fully advised as to the merits, and based upon the consent of the
5 parties, believes this relief should be granted.
6

8 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

9 1. Pursuant to the provisions of 15 U.S.C. § 687c, this Court shall
10 take exclusive jurisdiction of RCV, and all of its assets, wherever located,
11 and the United States Small Business Administration ("SBA"), is hereby
12 appointed receiver ("the Receiver") of RCV to serve without bond until
13 further order of this Court. The Receiver is appointed for the purpose of
14 administering, marshalling and, if necessary, liquidating all of RCV's assets
15 to satisfy the claims of creditors therefrom in the order of priority as
16 determined by this Court.
17

18 2. The Receiver shall have all powers, authorities, rights and
19 privileges heretofore possessed by the general partners, managers, officers,
20 and directors of RCV under applicable state and federal law and by the
21 Certificate of Limited Partnership and Partnership Agreement of said
22 partnership, in addition to all powers and authority conferred upon the
23 Receiver by the provisions of 15 U.S.C. § 687c and 28 U.S.C. § 754. The
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1 general partners, managers, directors, officers, employees and agents of RCV
2 are hereby dismissed. Such persons shall have no authority with respect to
3 RCV's operations or assets, except as may hereafter be expressly granted by
4 the Receiver. The Receiver shall assume and control the operation of RCV
5 and shall pursue and preserve all of its claims.

6 3. The past and/or present officers, directors, agents, managers,
7 general partners, accountants, attorneys and employees of RCV, as well as all
8 those acting in their place, are hereby ordered and directed to turn over to the
9 Receiver forthwith all books, records, documents, accounts and all other
10 instruments and papers of said partnership and all other assets and property of
11 the partnership, whether real or personal. RCV shall furnish a written
12 statement within ten (10) days after the entry of this Order, listing the identity,
13 location and estimated value of all assets of RCV, as well as the names,
14 addresses and amounts of claims of all known creditors of RCV. All persons
15 having control, custody or possession of any assets or property of RCV,
16 including its former General Partner, are hereby directed to turn such property
17 over to the Receiver.

18 4. The Receiver shall promptly give notice of its appointment to all
19 known officers, directors, agents, managers, general partners, employees,
20 limited partners, creditors, debtors and agents of RCV. All persons and

1 entities owing any obligations or debts to RCV shall, until further order of this
2 Court, pay all such obligations in accordance with the terms thereof to the
3 Receiver, and receipt for such payments by the Receiver shall have the same
4 force and effect as if RCV had received such payments.
5

6 5. The Receiver is hereby authorized to open such Receiver's bank
7 accounts, at banking or other financial institutions, to extend credit on behalf
8 of RCV, to utilize SBA personnel, and to employ such other personnel as
9 necessary (including the former managers of RCV at the Receiver's sole
10 discretion) to effectuate the operation of the receivership including, but not
11 limited to, attorneys and accountants, and is further authorized to expend
12 receivership funds to compensate such personnel in such amounts and upon
13 such terms as the Receiver shall deem reasonable in light of the usual fees and
14 billing practices and procedures of such personnel. The Receiver is not
15 required to obtain Court approval prior to the disbursement of receivership
16 funds for payments to personnel employed by the Receiver or payments for
17 expenses incidental to administration of the Receivership. In addition, the
18 Receiver is authorized to reimburse the SBA or its employees for travel
19 expenses incurred by SBA personnel in the establishment and administration
20 of the receivership. The Receiver may, without further order of this Court,
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1 transfer, compromise, or otherwise dispose of any claim or asset of RCV,
2 other than real estate.
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4 6. In accordance with the provisions of this Order and the Federal
5 Rules of Civil Procedure, and if so requested by the Receiver, RCV's past
6 and/or present officers, directors, agents, managers, general partners, limited
7 partners, employees, and other appropriate persons (including, without
8 limitation, the defendant's portfolio of small business concerns and of banks
9 or other financial institutions doing business with defendant and/or
10 defendant's portfolio of small business concerns) shall answer or provide
11 answers , to all questions put to them by the Receiver regarding the business
12 of RCV, or any other matter relevant to the operation or administration of the
13 RCV receivership or the collection of funds due to RCV. In the event that the
14 Receiver deems it necessary to require the appearance of any aforementioned
15 persons, the production of documents, information, or any other form of
16 discovery concerning the assets or property of RCV or any other matter
17 relevant to the operation or administration of the Receivership or the
18 collection of funds due to RCV, the Receiver shall provide notice of such to
19 such persons in accordance with the Federal Rules of Civil Procedure.

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26 7. The parties or prospective parties to any and all civil legal
27 proceedings (excluding the instant receivership proceeding), wherever located

1 including, but not limited to arbitration proceedings, bankruptcy or
2 foreclosure actions, default proceedings, or any other proceedings involving
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4 (i) RCV, (ii) any assets of RCV, (iii) the Receiver for RCV or (iv) RCV's
5 present or past officers, directors, managers, or general partners (including the
6 managers or members of such general partner) to the extent said civil legal
7 proceedings involve any action taken by them while acting in their official
8 capacity with RCV, are enjoined from taking any action, including discovery,
9 commencing or continuing any legal proceeding of any nature without further
10 order of this Court.
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14 8. All civil legal proceedings (excluding the instant receivership
15 proceeding) wherever located, including arbitration proceedings, foreclosure
16 activities, bankruptcy actions, or default proceedings, but excluding the
17 instant proceeding, involving (i) RCV, (ii) any of assets of RCV, (iii) the
18 Receiver for RCV or (iv) RCV's present or past officers, directors, managers,
19 or general partners (including the managers or members of such general
20 partner) to the extent said civil legal proceedings involve any action taken in
21 their official capacity for RCV are stayed in their entirety, and all Courts
22 having any jurisdiction thereof are enjoined from taking or permitting any
23 action in such proceedings until further Order of this Court.
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1 9. As to a cause of action accrued or accruing in favor of RCV
2 against a third person or party, any applicable statute of limitation is tolled to
3 the extent allowed by applicable law during the period in which this
4 injunction against commencement of legal proceedings is in effect as to that
5 cause of action.

8 10. RCV and its past and/or present directors, officers, managers,
9 general partners, agents, employees and other persons acting in concert or
10 participation therewith be, and they hereby are, enjoined from either directly
11 or indirectly taking any actions or causing any such action to be taken which
12 would dissipate the assets and property of RCV to the detriment of the
13 Receiver appointed in this cause, including but not limited to destruction of
14 corporate or partnership records, or which would violate the Small Business
15 Investment Act of 1958, as amended, (the "SBIA"), 15 U.S.C. Section 661 et
16 seq., or the regulations promulgated thereunder, (the "Regulations"), 13
17 C.F.R. § 107.1 et seq.

22 11. The Receiver is authorized to borrow on behalf of RCV, from
23 the SBA, up to \$1,000,000, and is authorized to cause RCV to issue
24 Receiver's Certificates of Indebtedness in the principal amounts of the sums
25 borrowed, which certificates will bear interest at or about 10 percent per
26 annum and will have a maturity date no later than 18 months after the date of

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1 issue. Said Receiver's Certificates of Indebtedness shall have priority over all
2 other debts and obligations of RCV, excluding administrative expenses of the
3 Receivership, whether presently existing or hereinafter incurred, including
4 without limitation any claims of partners of RCV.
5

7 12. This Court determines and adjudicates that RCV has violated 13
8 C.F.R. § 107.1830(b) and 13 C.F.R. § 107.507(a) of the Regulations as
9 alleged in the Complaint filed in this matter. After completing its activities in
10 accordance with this Order, the Receiver may recommend that RCV's license
11 as an SBIC be revoked.
12

14 DATED: 12/18/13

Christine A. Snyder
UNITED STATES DISTRICT JUDGE

Presented by:

21 Arlene M. Embrey, Esq.
22 Counsel for United States Small Business Administration

26 Michael K. Wyatt, Esq.
27 Foley Hoag, LLP
Counsel for Defendant